

**BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

IN RE APPLICATION OF:	§	
Burleigh, et al.	§	Docket No: CON-1028US
	§	
	§	
Serial No: 09/724,606	§	Art Unit: 2163
	§	
Filed: November 28, 2000	§	Examiner: H. B. Thai
	§	
Title: Information Management System	§	Confirmation No. 7648

REPLY BRIEF FOR APPELLANTS (37 CFR § 41.41)

MS Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Appellants hereby submit this reply brief in response to the Examiner's answer mailed on August 10, 2007.

No fees are believed due for this reply brief. The Commissioner is authorized to charge any fees required for this communication to Deposit Account **13-0010 (CON-1028US)**.

The final page of this brief bears the attorney's signature.

Arguments/Comments

The Appellants have two issues which they wish to bring to the Board's attention. **The first is that the Examiner has not effectively responded in the Examiner's answer to the Appellants' argument that neither *Cwenar* nor *Armitage* teach or suggest generating hydrocarbon-producing portfolio data tied to a key parameter field.** This argument is set forth in the Appeal brief starting at page 14 and is designated as §A(1)(b).

The Examiner, at page 4 of the answer states that Cwenar teaches the use of a key parameter field at the following cites:

- (a) column 6, line 66 to column 7, line 3;
- (b) column 7, lines 21-36;
- (c) the abstract; and
- (d) Fig. 6.

At the (a) cite, the Cwenar reference reads:

In a preferred practice of the invention, the central database is a server based Oracle database available from Oracle Corporation with SQL*Net of Oracle Corporation allowing communication between the external user interface and the central database. The system also preferably employs Oracle's Report Writer tool for building and generating reports based on an Oracle relational database which is a preferred central database for the system of the present invention.

At the (b) cite, the Cwenar reference reads:

In the preferred practice of the invention, a number of software tools may be employed to enhance flexibility of spreadsheet use. For example, software tools including multi-key sort utility, column statistics generators, data export facility, column hiding tools, column reordering tools, column freezing tools, ad hoc report writer formatter, charting utility and print tools could be provided. The user may not only access data according to specific requests, but may export the data to industry standard word processors, spreadsheets, analysis tools or data files, for example. Also, the user may hide certain columns, if desired, alter the sequence in which the columns are presented on the screen, freeze one or more columns in a particular location, create a preferred data format, present charts and print from the screen. If desired, the user can store the customized preferences for use in further sessions.

At the (c) cite, the Cwenar abstract reads:

A computerized data processing system includes an external data interface for communicating with nonuser outside sources of investment data and processing such data and delivering such data to a server which processes and stores such investment data in a central databank. Users may access the data stored in the central database which is supported by the server through an external user interface. The receiving, processing, creating and disseminating of data is a shared responsibility which is divided between the external user interface and the server. Multiple users may access the server simultaneously. The preferred embodiments employ a relational database, dynamically linked libraries, and multiple compliance capabilities. The system is particularly suited for use with mutual fund portfolio management and transactional information. The system may combine investment data relating to mutual funds or portions thereof or separate portions of a single fund for purposes of transactions, portfolio management or modeling.

The figure cited by the Examiner as cite (d) also fails to teach the use of key parameter fields. Nothing in these citations teaches or suggests using key parameter fields, an element and limitation of the claims of subject invention. The Board is requested to disregard the Examiner's allegations that Cwenar teaches the use of key parameter fields.

The second issue relates to an argument raised by the Examiner at page 14 of the answer. Therein, the Examiner, in refuting one of the Appellants' arguments, relating to the term "real time" states that:

With respect to updating record [sic] in "real-time", the examiner asserts that the environment in which Cwenar's teaching is intended for clearly requires "real-time" record updating, so as to keep multiple users consistent in managing their financial records. It is still the examiner's position that updating record such as pointed in lines 43-56, column 5 in Cwenar is clearly done in "real-time", otherwise the financial records kept by the system would render inaccuracies to multiple users. In short, the environment is which Cwenar intends [sic] must be done through "real-time" to avoid errors created in the records.

The Appellants take exception to the Examiner's assumptions. The midnight next day banking rule was created for purposes imposing a limit on how long Banks could keep transactions pending. Anyone using an ATM card knows that there is a limit on the amount of money that can be drawn in a single day. At least part of the reason for the limit is to prevent a cash overdraw.

The Examiner's reference is not even a recent reference. The '079 reference is a CIP of a 1994 application. Banks have traditionally reconciled their transactions on a daily, not real-time basis and banks are far more likely to need a real time operation than the cited end-users of Cwenar.

Cwenar is directed at mutual funds. This can be found in the above quoted Abstract. Mutual funds are investments directed to those people that do not want to do direct stock or commodities investment. Mutual funds are based upon portfolios of securities. Even "high-risk" mutual funds have the advantage of spreading the risks of large losses among many securities. Large losses are mitigated by the diversification afforded by mutual funds. Such funds often have fees that discourage frequent movement of investments. In such an environment, it would much more likely that an investor's transactions would be accepted by an agent and then batched at the end of the day rather than a real time approach, especially in view of the technology available in 1994.

Since it is unlikely that any actual transfer of shares of the mutual fund would be made until after payment is received and verified, there would be no incentive for a mutual fund to invest in the comparatively expensive infrastructure to do real time updating of transactions. Computer resources were substantially more expensive in 1994 than today. It follows then that the Examiner's assumption that a financial program would be inherently "real-time" is at best suspect and unsupported. The Examiner cannot support his arguments that Cwenar teaches real-time transactions based upon the reference and has relied upon a faulty inherency argument and thus the Board should disregard the Examiner's allegations to the contrary.

VIII. PRAYER FOR RELIEF

It is respectfully requested that the Board reverse the final rejections of the Examiner and the application be advanced to issue.

Respectfully Submitted,

October 9, 2007

/Gene L. Tyler/

Gene L. Tyler
Registration No. 35,395
Madan, Mossman & Sriram, P.C.
2603 Augusta, Suite 700
Houston, Texas 77057
Telephone: (713) 266-1130
Facsimile: (713) 266-8510
Attorney for Applicants